

**TENTATIVE RULINGS**

**FOR: February 28, 2018**

The Court may exercise its discretion to **disregard** a late filed paper in law and motion matters. (Cal. Rules of Court, rule 3.1300(d).)

**Unlawful Detainer Cases** – Pursuant to the restrictions in Code of Civil Procedure section 1161.2, no tentative rulings are posted for unlawful detainer cases and appearances are required.

**Court Reporting Services** – The Court does not provide official court reporters in proceedings for which such services are not legally mandated. These proceedings include civil law and motion hearings. If counsel want their civil law and motion hearing reported, they must arrange for a private court reporter to be present. Go to <http://napacountybar.org/court-reporting-services/> for information about local private court reporters. Attorneys or parties must confer with each other to avoid having more than one court reporter present for the same hearing.

**PROBATE CALENDAR – Hon. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.)**

**Estate of Mary J Cannon**

**17PR000113**

PETITION FOR FINAL DISTRIBUTION ON WAIVER OF ACCOUNT; FOR ALLOWANCE OF STATUTORY ATTORNEY COMPENSATION; FOR ALLOWANCE OF STATUTORY AND EXTRAORDINARY EXECUTOR COMPENSATION; FOR COSTS; FOR AUTHORITY TO WITHHOLD A RESERVE; AND FOR ORDER DESIGNATING SUCCESSOR CUSTODIAN

**TENTATIVE RULING:** GRANT petition, including fees as prayed.

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**Conservatorship of Andres Torres-Medina**

**18PR000008**

PETITION FOR APPOINTMENT OF PROBATE CONSERVATOR OF THE PERSON ó LIMITED CONSERVATORSHIP

**APPEARANCE REQUIRED**

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**In the Matter of the Patricia A Streblov Revocable Trust**

**18PR000027**

PETITION FOR ORDER DETERMINING TRUST'S TITLE TO PROPERTY

**TENTATIVE RULING:** GRANT Petition.

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**In the Matter of Beard Family Trust**

**26-58301**

PETITION FOR INSTRUCTIONS

**TENTATIVE RULING:** Successor trustee Sara A. Henry's motion for instruction regarding a complete lot line adjustment and a change to the current water sharing agreement is GRANTED.

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**Conservatorship of Jean Horlivy**

**26-65137**

REVIEW HEARING

**TENTATIVE RULING:** After a review of the matter, the Court finds the Conservator is acting in the best interest of the Conservatee. Thus, the case is set for a biennial review hearing in two years, on February 27, 2020 at 8:30 a.m. in Dept. I. The court investigator shall prepare a biennial investigator report for the next hearing date. The clerk is directed to send notice to the parties.

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**Estate of Streblov, Jack**

**PR24289**

PETITION TO CONFIRM NAME OF TRUST

**TENTATIVE RULING:** GRANT Petition.

**CIVIL LAW & MOTION CALENDAR – Hon. Rodney Stone, Dept. I (Criminal Courts Bldg.-1111 Third St.)**

**Corretta Baker v. Pacific Union College**

**16CV000451**

MOTION TO VACATE DISMISSAL JUDGMENT

**TENTATIVE RULING:** The Motion is DENIED. The Motion fails to set out a proper basis for the relief sought.

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**Adrienne Radakovic v. Christina Ligouri**

**17CV000381**

MOTION TO COMPEL

**TENTATIVE RULING:**

Plaintiff Adrienne Radakovic's request for judicial notice of portions of the November 9, 2017 Order and the December 5, 2017 Notice of Entry of Order is DENIED. Although Court records, the entire documents have not been presented. Plaintiff has not explained why only portions of these materials are relevant, and it is not common practice for a party requesting judicial notice of a court order to chop-off portions of the decision it finds irrelevant. The request, therefore, is incomplete and improper.

Plaintiff's motion for an order compelling further inspection of electronic devices for electronically stored information is GRANTED. Plaintiff seeks further inspection based on her demand served on September 2, 2017, and as amended and supplemented by her on December 8, 2017.<sup>1</sup> The NestCam inspection took place on December 12, 2017. (Jackson Decl., ¶ 6.) Retained ESI specialist Simon Varley of Calforensics was prevented from creating a forensic image of any device connected to the NestCam. (*Id.*) Varley was only allowed to determine the make and model of each device, partially extract preselected video data from defendant's iPhone, and extra video data from one folder that defendant had "cherry-picked" and migrated to her new Apple computer desktop. (*Id.*, ¶ 7.) Plaintiff claims the Court's order envisions a forensic image.

By contrast, defendant argues plaintiff is entitled to a targeted collection of the pertinent video files and relevant meta-data based on the Court's order, and forensic imaging is not permitted. Defendant maintains information should be able to be taken without making forensic copies of all the information in the electronic devices. As a result, defendant asserts the motion is nothing more than an untimely motion for reconsideration of the Court's prior order and is a blatant attempt to violate the limitations contained in that order.

At its heart, this is a motion for clarification of the Court's November 9, 2017 Order. The Court understands both parties' positions are diametrically opposite based on their respective interpretations of the language used in the order. The Court finds this is a legitimate discovery dispute.

The Court agrees with plaintiff. The Court already held plaintiff is entitled to inspect defendant's NestCam and its contents. Preserving the ESI with a forensic image is different from reviewing, disclosing, or inspecting the contents. The provisions of the order do not restrict the first step of forensic imaging. Indeed, it is common for a forensic image to be taken in order to examine information from electronic devices because a targeted collection would not retrieve relevant ESI that has been deleted or otherwise removed or transferred. The review and disclosure of that information is the second step and is governed by the Court's order. Accordingly, the Court finds plaintiff is entitled to make forensic images of each device to preserve all relevant ESI under the November 9, 2017 Order. Once the ESI is preserved, the parties and their experts will work together on search parameters to extract the NestCam related ESI. Thus, defendant shall provide all NestCam associated devices to plaintiff's ESI expert for the limited purpose of preserving all ESI by forensic image. None of the unrelated ESI, consistent with the prior order, shall be disclosed.

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<sup>1</sup> According to plaintiff, after it became clear that defendant Christina Ligouri intended to stop her ESI expert from preserving all relevant NestCam ESI by obtaining a forensic image, plaintiff served her re-noticed demand for inspection of property on December 8, 2017. (Jackson Decl., ¶ 2.)

The Court disagrees with defendant's characterization of plaintiff's prior motion to compel the demand for inspection as "unnecessary," "duplicative," and a "waste of the parties' and the Court's time and resources." (Opp. at p. 3:1-2.) The Court granted plaintiff's motion in part subject to the limitations detailed in the ruling on defendant's motion for a protective order.

Plaintiff's request for monetary sanctions is DENIED. Defendant was substantially justified in opposing the motion and the imposition of monetary sanctions would be unjust.

Defendant's request for monetary sanction for opposing the motion is DENIED. Plaintiff was substantially justified in bringing the motion and the imposition of monetary sanctions would be unjust.

Plaintiff's request for issue sanctions are not appropriate at this time.

Plaintiff to bear the cost of the forensic imaging.

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**Pedro Carrera Rojas, et al. v. Daniel R. Hirsch, MD, et al.** **17CV000794**

MOTION TO BE RELIEVED AS COUNSEL - CIVIL

**APPEARANCE REQUIRED**

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**Charisma Luz Monta Berry, et al. v. Shevket Saatcioglu, et al.** **18CV000070**

PETITION BY CHARISMA LUZ MONTA BERRY FOR ORDER RELEASING PROPERTY FROM CLAIM OF MECHANIC'S LIEN

**TENTATIVE RULING:** The Notice of Motion does not provide notice of the Court's tentative ruling system as required by Local Rule 2.9. Petitioner's counsel is directed to contact Defendant forthwith and advise Defendant of Local Rule 2.9 and the Court's tentative ruling procedure. If Petitioner's counsel is unable to contact Defendant prior to the hearing, Petitioner's counsel shall be available at the hearing, in person or by telephone, in the event Defendant appears without following the procedures set forth in Local Rule 2.9.

The unopposed Petition is GRANTED as prayed. The Court will award reasonable attorney's fees and costs according to proof in a subsequent motion.